

(2021) 09 OHC CK 0028

In the Orissa High Court

Case No : Writ Petition (Civil) No. 26603 Of 2021

Balaram Pradhani

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 07-09-2021

Acts Referred:

Citation : (2021) 09 OHC CK 0028

Hon'ble Judges : K.R.Mohapatra, J

Bench : Single Bench

Advocate : Dipti Ranjan Bhokta,

Judgement

K.R.Mohapatra, J

- 1.This matter is taken up through hybrid mode.
2. The Petitioner has filed this writ petition apprehending forceful seizure of the vehicle bearing Registration No.OD-10-C-4605 (Swaraj-PTL Tractor) by Opposite Party-Branch Manager, L&T Finance, Jeypore.
3. Mr. Bhokta, learned counsel for the Petitioner submits that due to non-payment of regular installments with regard to the aforesaid vehicle, the Petitioner apprehends seizure of the vehicle in question by Opposite Party without following the guidelines given by the Hon'ble Supreme Court in ICICI Bank Ltd. -v- Prakash Kaur and others, reported in (2007) 2 SCC 711. He further submits that the Petitioner had not moved this Court earlier in respect of the aforesaid vehicle in relation to the loan amount in question.
4. In course of hearing, Mr. Bhokta, learned counsel for the Petitioner submits that the petitioner is ready and willing to pay 50% of the total outstanding loan dues as on date and in that event, his vehicle may not be seized. He also undertakes to pay the monthly installments regularly on rephasing of his loan account.
5. The writ application against a private finance company is not maintainable in

view of the ratio decided in Federal Bank Ltd. -v- Sagar Thomas & Ors, reported in 2003(III) CLR 801. However, since the Petitioner is ready and willing to pay 50% of the total outstanding loan dues as on date, this Court entertains the writ petition.

6. Taking into consideration the submission of learned counsel for the Petitioner as well as the pandemic of COVID-19, this Court disposes of the writ petition with a direction that in the event the Petitioner deposits 50% of the total outstanding loan dues as on date within a period of four weeks hence, the vehicle bearing Registration No.OD-10-C-4605 (Swaraj-PTL Tractor) shall not be seized. The Petitioner shall also file an undertaking before Opposite Party No.2-Financer to pay the monthly installments regularly on rephasing of the rest of the loan dues. The Petitioner shall be provided with details of outstanding loan dues within two days from the date of filing of an application to that effect. The rest of the outstanding loan amount will be settled on rephasing basis keeping in mind the Regulatory Package issued by the Reserve Bank of India on 21st May, 2020 during the pandemic situation of COVID-19.

7. It is made clear that on failure on the part of the Petitioner to pay the installments regularly after rephasing, the Opposite Party No.2-Financer would be at liberty to take over possession of the vehicle in question.

Urgent certified copy of this order be granted on proper application.

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